

# EXHIBIT 5

**From:** [Babchinetskaya, Izabella \(Phila\)](#)

**Sent:** Tuesday, August 30, 2022 3:40:00 PM

**To:** 'Powell, Courtney'

**Cc:** [Jonathan Irwin](#); [aago@lawyerscommittee.org](mailto:aago@lawyerscommittee.org); [Leckerman, Jason \(Phila\)](#); [Gavin, Laura \(Phila\)](#); [Swaminathan, Lisa B. \(Phila\)](#); [Tianna Mays](#); [Woody Glass](#); [Holkum, Laura](#); [Lester, Andy](#); [Ferate, AJ](#)

**Subject:** RE: Hill et al. v. Town of Valley Brook, et al. - RFPs

**Sensitivity:** Normal

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Courtney,

We are frustrated by Defendants' actions here. As you know, the parties agreed to a class certification briefing schedule that was premised on the parties responding to discovery within a reasonable time frame. Indeed, when pressed by the Court on the schedule during the Rule 16 Conference, we noted this as well. Our discovery requests were served on June 23, 2022. Not having received responses after nearly two months (after already agreeing to a two-week extension), we requested a meet-and-confer, which was held on August 19, 2022. During that call, you indicated that Defendants would provide written responses on August 19, 2022, but asked for an extension until Friday, August 26, 2022 to produce responsive documents. We were not aware that Defendants had not yet collected responsive documents they intended to produce. And, in fact, during our call regarding an ESI protocol, we were told that collection should be completed in early August. In the spirit of cooperation, we again agreed to extend the deadline without waiver of our right to argue that any objections to our document requests have been waived. To avoid a further delay in document production, on August 25<sup>th</sup>, we circulated a protective order, which you requested in your written discovery responses. Defendants have not responded to the draft protective order, nor did they produce documents on August 26<sup>th</sup>. Yesterday, you indicated, for the first time, that you needed to collect additional documents, and therefore, Defendants could not produce any documents until September 6, 2022.

Any further delay of discovery threatens to prejudice our clients. Not only does it delay their case, but class certification is scheduled for early December. Although during our meet-and-confer you mentioned that Defendants would agree to an extension of the deadline, because of the current deadline, we feel compelled to file a motion to compel with the Court if we do not receive the documents by Tuesday, September 6, 2022.

Best,  
Izabella

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**From:** Powell, Courtney <cpowell@spencerfane.com>

**Sent:** Monday, August 29, 2022 12:58 PM

**To:** Jonathan Irwin <Jonathan@wardglasslaw.com>; Babchinetskaya, Izabella (Phila) <BabchinetskayaI@ballardspahr.com>; aago@lawyerscommittee.org; Leckerman, Jason (Phila) <LeckermanJ@ballardspahr.com>; Gavin, Laura (Phila) <gavinl@ballardspahr.com>; Swaminathan, Lisa B. (Phila) <SwaminathanL@ballardspahr.com>; Tianna Mays <tmays@lawyerscommittee.org>; Woody Glass <woody@wardglasslaw.com>

**Cc:** Holkum, Laura <lholkum@spencerfane.com>; Lester, Andy <alester@spencerfane.com>; Ferate, AJ <AJFerate@spencerfane.com>

**Subject:** RE: Hill et al. v. Town of Valley Brook, et al. - RFPs

**⚠ EXTERNAL**

We are working on amended responses in light of further discussions with our client. Many of the responsive documents are not readily available and have (previously) been requested. Our client should receive those documents mid-week. We will review and work to complete production as quickly as possible but this may take until next Tuesday – we will work to shorten the time.

Courtney

**Courtney Powell** Of Counsel  
Spencer Fane LLP

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**From:** Powell, Courtney  
**Sent:** Friday, August 26, 2022 9:04 PM  
**To:** Jonathan Irwin <[Jonathan@wardglasslaw.com](mailto:Jonathan@wardglasslaw.com)>; Babchinetskaya, Izabella <[Babchinetskayal@ballardspahr.com](mailto:Babchinetskayal@ballardspahr.com)>; [aago@lawyerscommittee.org](mailto:aago@lawyerscommittee.org); Leckerman, Jason <[LeckermanJ@ballardspahr.com](mailto:LeckermanJ@ballardspahr.com)>; Gavin, Laura <[gavinl@ballardspahr.com](mailto:gavinl@ballardspahr.com)>; Swaminathan, Lisa B. <[SwaminathanL@ballardspahr.com](mailto:SwaminathanL@ballardspahr.com)>; Tianna Mays <[tmays@lawyerscommittee.org](mailto:tmays@lawyerscommittee.org)>; Woody Glass <[woody@wardglasslaw.com](mailto:woody@wardglasslaw.com)>  
**Cc:** Holcum, Laura <[lholkum@spencerfane.com](mailto:lholkum@spencerfane.com)>; Lester, Andy <[alester@spencerfane.com](mailto:alester@spencerfane.com)>; Ferate, AJ <[AJFerate@spencerfane.com](mailto:AJFerate@spencerfane.com)>  
**Subject:** RE: Hill et al. v. Town of Valley Brook, et al. - RFPs

We appreciate your continued courtesies regarding the production of documents. We are continuing to work to finalize a complete production of documents, however, the documents are not finalized today. We will advise you by noon Monday as to the status. I can assure you we are working to get the production to you as soon as possible.

Courtney

**Courtney Powell** Of Counsel  
Spencer Fane LLP

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